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Attorneys for Plaintiffs,  
UMG RECORDINGS, INC.; SONY BMG  
MUSIC ENTERTAINMENT; ARISTA  
RECORDS LLC; ELEKTRA  
ENTERTAINMENT GROUP INC.;  
CAPITOL RECORDS, INC.; and BMG  
MUSIC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UMG RECORDINGS, INC., a Delaware  
corporation; SONY BMG MUSIC  
ENTERTAINMENT, a Delaware general  
partnership; ARISTA RECORDS LLC, a  
Delaware limited liability company; ELEKTRA  
ENTERTAINMENT GROUP INC., a Delaware  
corporation; CAPITOL RECORDS, INC., a  
Delaware corporation; and BMG MUSIC, a New  
York general partnership,

Plaintiffs,

v.

ELISE TAMAI,

Defendant.

CASE NO. 3:07-CV-04835-JCS

Honorable Joseph C. Spero

**DECLARATION OF MATTHEW  
FRANKLIN JAKSA IN FURTHER  
SUPPORT OF MOTION FOR DEFAULT  
JUDGMENT AGAINST DEFENDANT  
ELISE TAMAI**

Date: July 11, 2008

Time: 9:30 a.m.

Dept.: Courtroom A, 15<sup>th</sup> Floor

**DECLARATION OF MATTHEW FRANKLIN JAKSA**

I, Matthew Franklin Jaks, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of California and the United States District Court for the Northern District of California. I am an associate in the law firm of Holme Roberts & Owen LLP ("HRO"). HRO serves as lead national counsel for the record companies in all actions like the current case. I have personal knowledge of all facts set forth in this declaration, except as where stated on information and belief. As to such facts, I believe them to be true.

2. Users of peer-to-peer networks who distribute files over a network can be identified using Internet Protocol ("IP") addresses, as more fully described below, because the unique IP address of the computer offering the files for distribution can be captured by a user during a search or a file transfer. Users of peer-to-peer networks can be identified by their IP addresses because each computer or network device that connects to a peer-to-peer network must have a unique IP address within the Internet to deliver files from one computer or network device to another. Two computers cannot effectively function if they are connected to the Internet with the same IP address at the same time. This is analogous to the postal system, where each mail drop has a unique address. Each computer or network device is connected to a network that is administered by an organization like a business, Internet Service Provider ("ISP"), college or university. Each network, in turn, is analogous to a zip code. The network provider will maintain a log of IP address allocations. An IP address can be associated with an organization such as an ISP, business, college or university, and that organization can identify the peer-to-peer network user associated with the IP address.

3. On May 28, 2007, Plaintiffs' investigators detected an individual, later determined to be Defendant, using the LimeWire online media distribution system over a peer-to-peer file-sharing network. This individual had 1022 audio files on her computer and was distributing them to the millions of people who use peer-to-peer networks. A third-party investigator retained by Plaintiffs, MediaSentry, Inc., determined that the individual used IP address 129.210.185.210 to connect to the Internet.

1           4.     In gathering evidence of copyright infringement, MediaSentry uses the same  
2 functionalities that are built into peer-to-peer programs that any user of the software can use on the  
3 network. Therefore, MediaSentry does not do anything that any other user on a peer-to-peer  
4 network cannot do. MediaSentry does not obtain any information that is not also available to anyone  
5 who logs into a peer-to-peer network.

6           5.     Just as any other user on the same peer-to-peer network as this individual would be  
7 able to do, MediaSentry was able to detect the infringement of copyrighted works and identify the  
8 user's IP address, because the LimeWire peer-to-peer software had its file-sharing feature enabled.<sup>1</sup>  
9 MediaSentry obtained a list of the individual's "share" folder(s) and downloaded a number of the  
10 MP3 music files that the individual was offering to users of the LimeWire network. Then, the record  
11 companies themselves verified that these music files were, indeed, their copyrighted recordings.  
12 These music files are the ones listed in Exhibit A to the First Amended Complaint ("Complaint"), a  
13 true and correct copy of which is attached as **Exhibit 1**.

14           6.     Once Plaintiffs verified that their copyrights had been infringed, Plaintiffs began the  
15 process of identifying the individual associated with IP address 129.210.185.210. To do this,  
16 Plaintiffs filed a Doe lawsuit and an *Ex Parte* Application for Leave to Take Immediate Discovery  
17 on September 20, 2007. The purpose of the discovery motion was to allow the Plaintiffs to serve a  
18 subpoena on the ISP with which IP address 129.210.185.210 was associated, in order to learn the  
19 identity of the individual to whom this address was assigned at the date and time the infringement  
20 was detected. Specifically, Plaintiffs sought leave to serve a subpoena asking the ISP to identify the  
21 individual associated with IP address 129.210.185.210 at the date and time MediaSentry detected the  
22 infringement.

23           7.     The Court entered its Order Granting Plaintiffs' *Ex Parte* Application for Leave to  
24 Take Immediate Discovery on October 3, 2007, and Plaintiffs served the above-referenced subpoena  
25 on Santa Clara University ("SCU"), the ISP associated with the above-referenced IP address. SCU  
26 identified Elise Tamai, the Defendant, as the individual in question.

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27  
28           <sup>1</sup> See *United States v. Kennedy*, 81 F. Supp. 2d 1103, 1106 n.4 (D. Kan. 2000) (explaining  
detection through a file-sharing program).

1           8.       After learning Ms. Tamai's identity, Plaintiffs' counsel sent Ms. Tamai a letter  
2       advising her that copyright infringement had been detected and providing a telephone number and e-  
3       mail address she could use to contact Plaintiffs' representatives to try to resolve the matter before  
4       amending the Doe lawsuit to name Ms. Tamai as Defendant.

5           9.       Plaintiffs' settlement representatives did not hear from Defendant, and Plaintiffs filed  
6       their First Amended Complaint against Defendant for copyright infringement on January 18, 2008.

7           10.      Defendant was served with the Summons and Complaint on February 18, 2008, by  
8       substitute service.

9           11.      Defendant failed to answer or otherwise respond to the Complaint, or to serve a copy  
10      of any answer or other response upon Plaintiffs' attorneys of record.

11          12.      On March 17, 2008, Plaintiffs' counsel sent a letter to Defendant explaining that she  
12      was in default, and urging Defendant to respond to the Complaint or contact Plaintiffs'  
13      representatives regarding a settlement. Plaintiffs received no response to this letter. Attached as  
14      **Exhibit 2** is a true and correct copy of the letter sent by Plaintiffs to Defendant.

15          13.      On March 27, 2008, the Clerk of this Court entered the default of Defendant.  
16      Attached as **Exhibit 3** is a true and correct copy of the Default by Clerk.

17          14.      Defendant was notified that the Clerk of this Court entered default of Defendant on  
18      March 27, 2008. Attached as **Exhibit 4** is a true and correct copy of the Proof of Service of Default  
19      by Clerk.

20          15.      The library staff of Holme Roberts & Owen conducted searches in the SmartLinx  
21      Person Summary Report database of Lexis Nexis to determine the age of Defendant. This search  
22      revealed that Defendant was issued a social security number in 1989. As such, Plaintiffs are  
23      informed and believe that Defendant is at least 19 years old, and is therefore not a minor. Attached  
24      as **Exhibit 5** is a true and correct copy of the search, which shows Defendant's name, address, and  
25      year of issue of her social security number. I am also informed and believe that Defendant is not  
26      incompetent.

27          16.      The Library staff of Holme Roberts & Owen also conducted a search through the  
28      Department of Defense – Manpower Data Center, to determine if Defendant is in the military. The

1 search revealed no evidence that Defendant is in the military service. Attached as **Exhibit 6** is a true  
2 and correct copy of the search.

3 17. Plaintiffs have incurred costs in this case in the amount of \$350 for filing fees, and  
4 \$70 for service of process.

5 18. In the event that the Court has additional questions or concerns related to Plaintiffs'  
6 motion for default judgment, Plaintiffs respectfully request a hearing in order to address the Court's  
7 concerns.

8 I declare under penalty of perjury under the laws of the United States of America that the  
9 foregoing is true and correct.

10 Executed this 5th day of June, 2008, at San Francisco, California.

11  
12 

13 Matthew Franklin Jaksa  
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# **EXHIBIT 1**

Matthew Franklin Jaksa (CA State Bar No. 248072)  
HOLME ROBERTS & OWEN LLP  
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San Francisco, CA 94105-2994  
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Attorneys for Plaintiffs,  
UMG RECORDINGS, INC.; SONY BMG MUSIC  
ENTERTAINMENT; ARISTA RECORDS LLC;  
ELEKTRA ENTERTAINMENT GROUP INC.;  
CAPITOL RECORDS, INC.; and BMG MUSIC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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York general partnership,  
Plaintiffs,

v.

ELISE TAMAI,  
Defendant.

CASE NO. 3:07-CV-04835-JCS

**Honorable Joseph C. Spero**

**FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. §101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. §1331 (federal  
5 question); and 28 U.S.C. §1338(a) (copyright).

6 3. This Court has personal jurisdiction over the Defendant, Elise Tamai, and venue in  
7 this District is proper under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400, because, on  
8 information and belief, the Defendant resides in this District and/or a substantial part of the acts of  
9 infringement complained of herein occurred in this District.

**PARTIES**

10  
11 4. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the  
12 laws of the State of Delaware, with its principal place of business in the State of California.

13 5. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general  
14 partnership, with its principal place of business in the State of New York.

15 6. Plaintiff Arista Records LLC is a limited liability company duly organized and  
16 existing under the laws of the State of Delaware, with its principal place of business in the State of  
17 New York.

18 7. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and  
19 existing under the laws of the State of Delaware, with its principal place of business in the State of  
20 New York.

21 8. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the  
22 laws of the State of Delaware, with its principal place of business in the State of New York.

23 9. Plaintiff BMG Music is a general partnership duly organized and existing under the  
24 laws of the State of New York, with its principal place of business in the State of New York.

25 10. Plaintiffs are informed and believe that Defendant is an individual who resided in  
26 Santa Clara, California, within this District at the time of the infringement complained of herein.  
27 Upon information and belief, Defendant may still be found in this District.  
28



**COUNT I****INFRINGEMENT OF COPYRIGHTS**

11. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights, for which the Plaintiffs are the owners as specified on Exhibit A.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

14. Much of the unlawful distribution of copyrighted sound recordings over the Internet occurs via "peer-to-peer" ("P2P") file copying networks or so-called online media distribution systems. P2P networks, at least in their most popular form, refer to computer systems or processes that enable Internet users to search for files (including audio recordings) stored on other users' computers and transfer exact copies of files from one computer to another via the Internet, which can include both downloading an exact copy of that file onto the user's own computer and distributing an exact copy of that file to other Internet users on the same P2P network. P2P networks enable users who otherwise would have no connection with, or knowledge of, each other to provide a sophisticated search mechanism by which users can locate these files for downloading and to reproduce and distribute files off of their personal computers.

15. Users of P2P networks who distribute files over a network can be identified by using Internet Protocol ("IP") addresses because the unique IP address of the computer offering the files for distribution can be captured by another user during a search or a file transfer. Users of P2P networks can be identified by their IP addresses because each computer or network device (such as a

1 router) that connects to a P2P network must have a unique IP address within the Internet to deliver  
2 files from one computer or network device to another. Two computers cannot effectively function if  
3 they are connected to the Internet with the same IP address at the same time.

4 16. Plaintiffs identified an individual using LimeWire on the P2P network Gnutella at IP  
5 address 129.210.185.210 on May 28, 2007 at 13:29:18 EDT distributing 1022 audio files over the  
6 Internet. The Defendant was identified as the individual responsible for that IP address at that date  
7 and time. Plaintiffs are informed and believe that as of May 28, 2007, Defendant, without the  
8 permission or consent of Plaintiffs, had continuously used, and continued to use, a P2P network to  
9 download and/or distribute to the public the Copyrighted Recordings. Exhibit A identifies the date  
10 and time of capture and a list of Copyrighted Recordings that Defendant has, without the permission  
11 or consent of Plaintiffs, downloaded and/or distributed to the public. Through Defendant's  
12 continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted  
13 Recordings, which acts Plaintiffs believe to have been ongoing for some time, Defendant has  
14 violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute  
15 infringement of Plaintiffs' copyrights and exclusive rights under copyright.

16 17. In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and  
17 believe that Defendant has, without the permission or consent of Plaintiffs, continuously downloaded  
18 and/or distributed to the public additional sound recordings owned by or exclusively licensed to  
19 Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are  
20 ongoing.

21 18. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
22 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
23 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
24 These published copies were widely available, and each of the published copies of the sound  
25 recordings identified in Exhibit A was accessible by Defendant.

26 19. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
27 willful and intentional, in disregard of and indifference to the rights of Plaintiffs.  
28

1           20.     As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
2 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for  
3 Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to  
4 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

5           21.     The conduct of Defendant is causing and, unless enjoined and restrained by this  
6 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated  
7 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502  
8 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing  
9 Plaintiffs' copyrights, and ordering Defendant to destroy all copies of sound recordings made in  
10 violation of Plaintiffs' exclusive rights.

11           WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

12           1.     For an injunction providing:

13           "Defendant shall be and hereby is enjoined from directly or indirectly  
14 infringing Plaintiffs' rights under federal or state law in the  
15 Copyrighted Recordings and any sound recording, whether now in  
16 existence or later created, that is owned or controlled by Plaintiffs (or  
17 any parent, subsidiary, or affiliate record label of Plaintiffs)  
18 ("Plaintiffs' Recordings"), including without limitation by using the  
19 Internet or any online media distribution system to reproduce (i.e.,  
20 download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any  
21 of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings  
22 available for distribution to the public, except pursuant to a lawful  
23 license or with the express authority of Plaintiffs. Defendant also shall  
24 destroy all copies of Plaintiffs' Recordings that Defendant has  
25 downloaded onto any computer hard drive or server without Plaintiffs'  
26 authorization and shall destroy all copies of those downloaded  
27 recordings transferred onto any physical medium or device in  
28 Defendant's possession, custody, or control."

22           2.     For statutory damages for each infringement of each Copyrighted Recording  
23 pursuant to 17 U.S.C. § 504.

24           3.     For Plaintiffs' costs in this action.

25           4.     For Plaintiffs' reasonable attorneys' fees incurred herein.

26 ///

27 ///

28 ///

5. For such other and further relief as the Court may deem just and proper.

Dated: January 18, 2008

HOLME ROBERTS & OWEN LLP

By: 

MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

UMG RECORDINGS, INC.; SONY BMG

MUSIC ENTERTAINMENT; ARISTA

RECORDS LLC; ELEKTRA

ENTERTAINMENT GROUP INC.;

CAPITOL RECORDS, INC.; and BMG

MUSIC

**EXHIBIT A**

**EXHIBIT A****ELISE TAMAI****IP Address:** 129.210.185.210 2007-05-28 13:29:18 EDT**CASE ID#** 130936544**P2P Network:** Gnutella**Total Audio Files:** 1022

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Lifehouse	You And Me	Lifehouse	370-643
SONY BMG MUSIC ENTERTAINMENT	Korn	Freak On a Leash	Follow the Leader	263-749
UMG Recordings, Inc.	Rise Against	Paper Wings	Siren Song Of The Counter Culture	355-243
Arista Records LLC	Air Supply	All Out Of Love	Lost In Love	38-070
Elektra Entertainment Group Inc.	The Cure	Lullaby	Disintegration	104-305
UMG Recordings, Inc.	Nelly	Over and Over	Suit	358-551
Capitol Records, Inc.	Jimmy Eat World	Crush	Clarity	262-667
UMG Recordings, Inc.	Counting Crows	A Long December	Recovering The Satellites	226-415
BMG Music	Eve 6	Think Twice	It's All in Your Head	335-549

# **EXHIBIT 2**



Holme Roberts & Owen LLP  
*Attorneys at Law*

SAN FRANCISCO

March 17, 2008

VIA U.S. MAIL

BOULDER

Elise Tamai  
564 Alviso Street  
Santa Clara, CA 95050

COLORADO SPRINGS

Re: *UMG Recordings, Inc., et al. v. Elise Tamai*  
U.S. District Court-Northern District, San Francisco Division  
Case No. C 07-04835 JCS

Dear Ms. Tamai:

DENVER

This law firm is counsel to the record company plaintiffs in the above-mentioned case. You were served with the Summons and Complaint on **February 18, 2008**. As the Summons stated, the law required you to file and serve a response to the Complaint within 20 days after you were served. Because you have failed to do so, Plaintiffs now have the right to enter your default and seek judgment against you for all of the relief sought in the Complaint, including monetary damages and an injunction. We urge you to file and serve a response to the Complaint immediately, and to consult an attorney if you have not yet done so. Failure to respond to the Complaint can have serious consequences for you.

LONDON

LOS ANGELES

MUNICH

If you would like to try to settle this case promptly, you or your attorney may call the record companies' representatives by phone at (913) 234-8181, by facsimile at (913) 234-8182, or by e-mail at [info@SettlementInformationLine.com](mailto:info@SettlementInformationLine.com). If you are under the age of 18, we will require that your attorney (or your parent or other guardian) be present during any discussions. Please understand that contacting the record companies' representatives is not a substitute for filing immediately a response to the Complaint.

SALT LAKE CITY

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Jaksa', followed by a long horizontal line.

Matthew F. Jaksa



# **EXHIBIT 3**

UNITED STATES DISTRICT COURT  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, California 94102

[www.cand.uscourts.gov](http://www.cand.uscourts.gov)

Richard W. Wieking  
Clerk

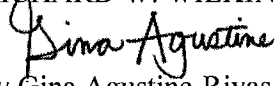
General Court Number  
415.522.2000

March 27, 2008

RE: CV 07-04835 JCS UMG RECORDINGS INC.-v- JOHN DOE &#035;l

Default is entered as to **Defendant Elise Tamai** on **March 27, 2008..**

RICHARD W. WIEKING, Clerk

  
by Gina Agustine-Rivas  
Case Systems Administrator

# **EXHIBIT 4**

Matthew Franklin Jaksa (CA State Bar No. 248072)  
HOLME ROBERTS & OWEN LLP  
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Attorneys for Plaintiffs,  
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ELISE TAMAI,

Defendant.

CASE NO. 3:07-CV-04835-JCS

The Honorable Joseph C. Spero

**PROOF OF SERVICE OF CLERK'S  
NOTICE OF ENTRY OF DEFAULT**

**PROOF OF SERVICE**

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the office of Holme Roberts & Owen in San Francisco, California. I am over the age of eighteen years and not a party to the within action. My business address is 560 Mission Street, 25th Floor, San Francisco, CA 94105.

On March 27, 2008, I served the foregoing documents described as:

**CLERK'S NOTICE OF ENTRY OF DEFAULT**

on the interested party in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

**Elise Tamai  
564 Alviso Street  
Santa Clara, CA 95050**

☒ BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 27, 2008 at San Francisco, California.



Della Grant

# **EXHIBIT 5**

DPPA - 1. Litigation

GLBA - 6. Persons With a Legal or Beneficial Interest re Consumer

Subject Summary | Others Using SSN | Address Summary (1) | Voter Registrations  
 Licenses | Personal Property | Real Property | Bankruptcies | Judgments & Liens  
 Relatives | Associated Entities | Neighbors (5) | Sources (2)

FOR INFORMATIONAL PURPOSES ONLY  
 Copyright 2005 LexisNexis,  
 a division of Reed Elsevier Inc. All Rights Reserved

Full Name	Address	County	Phone
TAMAI, ELISE A	564 ALVISO ST SANTA CLARA, CA 95050-4906 COUNTY: SANTA CLARA	SANTA CLARA	

ADDITIONAL PERSONAL INFORMATION		
SSN	DOB	GENDER
645-07-XXXX (TEXAS: 1989-1989)		

Subject Summary

Name Variations (1) | SSNs Summary (1)

Name Variations

View Name Variation Sources

1: TAMAI, ELISE A
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SSNs Summary

View SSN Sources

No.	SSN	State Iss.	Date Iss.	Warnings
1:	645-07-XXXX	TEXAS	1989-1989	

Address Summary

Address Summary - 1 records found for subject:

View Address Sources

	Address	Actions
1:	564 ALVISO ST SANTA CLARA, CA 95050-4906 COUNTY: SANTA CLARA	Get Report  View Details

Address Details

1: 564 ALVISO ST, SANTA CLARA, CA 95050-4906			
Address	Dates	Phones	Actions

564 ALVISO ST SANTA CLARA, CA 95050-4906 COUNTY: SANTA CLARA	02/2008		Get Report View Neighbors
Census Data for this Geographical Region			
Median Head of Household Age:			34
Median Income:			\$49,808
Median Home Value:			\$433,100
Median Education Level:			14 years

## Neighbors



## Neighbors

564 ALVISO ST, SANTA CLARA, CA 95050-4906			
Name	Address	Phone	Actions
CROWLEY, ANGELA B	559 ALVISO ST APT 3 SANTA CLARA, CA 95050-4965 COUNTY: SANTA CLARA	(000) 000-0000	Get Report
AVALOS, MICHAEL	559 ALVISO ST APT 4 SANTA CLARA, CA 95050-4965 COUNTY: SANTA CLARA		Get Report
TORRES, MARIA ALE-JANDRA	559 ALVISO ST APT 5 SANTA CLARA, CA 95050-4965 COUNTY: SANTA CLARA		Get Report
	554 ALVISO ST SANTA CLARA, CA 95050-4906 COUNTY: SANTA CLARA	(408) 554-6924	Get Report
	575 ALVISO ST SANTA CLARA, CA 95050-4905 COUNTY: SANTA CLARA		Get Report

## Sources

## Sources

All Sources	2 Source Documents
Person Locator 1	1 Source Document
Historical Person Locator	1 Source Document

Key:	
	High or moderate risk indicator. These flags may prompt you to investigate further
	The most recent telephone listing as reported by the EDA source



Important: The Public Records and commercially available data sources used in Smartlinx(TM) Reports have errors. Data is sometimes entered poorly, processed incorrectly and is generally not free from defect. This system should not be relied upon as definitively accurate. Before relying on any data this system supplies, it should be independently verified. For Secretary of State documents, the information contained in the Smartlinx(TM) Reports is for information purposes only and is not an official record. Certified copies may be obtained from that individual state's Department of State.

# **EXHIBIT 6**

Department of Defense Manpower Data Center

MAR-25-2008 09:05:49



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
TAMAI	Elise	Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military. **HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.**

*Mary M. Snavely-Dixon*

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USCS Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenselink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person ( e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

Report ID: QHZNTGMASL

PROOF OF SERVICE

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the office of Holme Roberts & Owen in San Francisco, California. I am over the age of eighteen years and not a party to the within action. My business address is 560 Mission Street, 25th Floor, San Francisco, CA 94105.

On June 5, 2008, I served the foregoing documents described as:

**DECLARATION OF MATTHEW FRANKLIN JAKSA IN FURTHER SUPPORT OF  
MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT ELISE TAMAI**

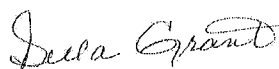
on the interested party in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

**Elise Tamai  
564 Alviso Street  
Santa Clara, CA 95050**

☒ BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 5, 2008 at San Francisco, California.



Della Grant